

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JOSEPH THOMPSON,

Defendant.

ORDER
16-CR-7

Defendant Joseph Thompson is charged in a six-count Indictment with a variety of controlled substance offenses. See Docket Item 12. This Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all pretrial matters, including those that a magistrate judge may hear and determine, pursuant to 28 U.S.C. § 636(b)(1)(A), and those that a magistrate judge may hear and thereafter file a report and recommendation, pursuant to § 636(b)(1)(B). See Docket Item 13.

On January 29, 2016, the parties agreed to a Scheduling Order that required them to file pretrial motions by May 27, 2016. Docket Item 16 at 1 (¶ 2). The Scheduling Order stated that the “[f]ailure by any party . . . to make requests which must be made . . . at the time set forth in this scheduling order or prior to any extension made by the court shall constitute a waiver thereof.” *Id.* at 2. No pretrial motions were filed by the May 27, 2016 deadline. So on May 31, 2016, the government filed a motion to set a trial date. See Docket Item 19. In its papers, the government noted that “the defense was to file any pretrial motions by May 27, 2016,” but “did not file any motions.” *Id.* at 2 (¶ 2).

On June 1, 2016, Thompson filed a belated omnibus pretrial motion. See Docket Item 20. But he did not attempt to offer an explanation for the untimeliness of the motion and instead simply ignored the Scheduling Order. See *id.*

On June 2, 2016, Judge McCarthy issued a Report and Recommendation recommending that Thompson's motion be denied "without prejudice to a renewed motion demonstrating good cause why its belated filing should be excused." See Docket Item 21 at 1. The government filed a Notice indicating that it did not object to the Report and Recommendation. See Docket Item 22. Thompson did not file any objections, and the time do so has expired.

This Court has carefully reviewed the Report and Recommendation, the docket, and the relevant Scheduling Order. For the reasons set forth in Judge McCarthy's Report and Recommendation and above, the Court adopts the Report and Recommendation (Docket Item 21) in its entirety. Thompson's omnibus pretrial motion (Docket Item 20) is DENIED without prejudice to a renewed motion demonstrating good cause why its belated filing should be excused. A Status Conference/Meeting to Set Trial date is scheduled for June 30 2016, at 1:30 p.m.

SO ORDERED.

Dated: June 28, 2016
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE